

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 23591 of 1995

Between:

1 J.Manaiah, S/o.Sayanna, R/o.Nizampur Village,

Zaheerabad, Medak District.

2 Dobbala Ramaiah, S/o.Pochaiah, R/o.Nizampur Village,

Zaheerabad, Medak District.

3 Yerra Pochaiah (died), Rep. by his L.R., Yerra Sailoo,

S/o.Pochaiah, R/o.Nizampur Village,

Zaheerabad, Medak District.

4 Mukkejella Pochaiah (died), Rep. by his L.R., Sailoo,

S/o.Pochaiah, R/o.Nizampur Village,

Zaheerabad, Medak District.

5 Pliragi (died), Rep. by his L.R., Bagaiah, S/o.Pliragi,

R/o.Nizampur Village, Zaheerabad, Medak District.

6 Bogla Ratnaiah, S/o. Keshiah, R/o.Nizampur Village,

Zaheerabad, Medak District.

..... PETITIONERS

AND

1 The District Collector,
Medak at Sangareddy, Medak District.

2 The Special Deputy Collector (L.A.),
Manjeera Water Works, Sangareddy, Medak District.

3 The Executive Engineer (Metro Water Works)
(Manjeera Dam), Patancheru, Medak District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction one in the nature Writ of Mandamus, declaring the action of the respondents in not paying the compensation for the assigned lands of the petitioners in Survey No.157 Nizampur, Medak District acquired for constructing Manjeera Dam, basing upon Clause 12 in their final patta certificates, is contrary to the provisions of the Land Assignment Policy of the Government framed through G.O.Ms.No.1406 dt.26-7-1958 and G.O.Ms.No.1724, dt.26-3-1959; directing the respondents to pay compensation on par with other pattadars for submergence of lands following the provisions of Land Acquisition Act, in respect of their lands in Survey No.157 situated at Nizampur in Medak District, and awarding costs to them.

Counsel for Petitioners: MR. K.RAJI REDDY

Counsel for Respondents 1 and 2: GOVERNMENT PLEADER FOR LAND ACQUISITION

Counsel for Respondent No.3: MR. S.KISHAN RAO

The Court made the following ORDER:

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This writ petition is filed by the petitioners praying to declare the action of the respondents in not paying compensation for the assigned lands in Survey No.157, Nizampur, Medak District, acquired by the Government for constructing Manjira Dam, basing on Clause 12 of the Final Patta Certificates, as being contrary to the provisions of the Land Assignment Policy of the Government, framed in G.O. Ms. No.1406, dated 26-7-1958 and G.O. Ms. No.1724, dated 26-3-1959; and further to direct the respondents to pay compensation on par with other Pattadars for submergence of their assigned lands, following the provisions of Land Acquisition Act, 1894.

It is the case of the petitioners that they are landless poor and they were assigned small extents of lands in the year 1975 by the Government and they were also granted Final Patta Certificates, and since then they are in possession and cultivation of the same. While so, the Government of Andhra Pradesh sought to acquire the lands pertaining to Nizampur village, in which the lands assigned to the petitioners are also situated, for the purpose of Manjira Project for providing drinking water to the people. It is the case of the petitioners that the respondents though initiated land acquisition proceedings, subsequently dropped the same on the ground that no compensation need be paid to the petitioners in view of Clause 12 of the Patta Certificates granted to them, which states:

“In the event of the land being required for a Project or any other public purposes, the land will be resumed and no compensation shall

be paid to the assignee.”

“The decision of the Government or other authority empowered by them in this behalf shall be final on the question whether the purpose for which the land is to be resumed is a public purpose or not.”

According to the petitioners, this Clause in the agreement is contrary to the assignment policy of the Government. It is further submitted that the Government in G.O. Ms. No.1307, dated 23-12-1993, Revenue-B Department, clarified that whenever any assigned land is acquired for the purpose of major and minor irrigation and power Projects, compensation has to be paid at market value to the assignee, in the same manner as will be paid to the patta holders for acquiring of their lands under Section 4(1) of the Land Acquisition Act, 1894 (for short, ‘the LA Act’). The benefit of the said G.O. has been extended to assigned lands, acquired for minor irrigation project as well as for industrial purpose, vide G.O. Ms. No.603, Revenue-B Department, dated 28-5-1986 and G.O. Ms. No.180, dated 9-2-1984 etc.

While so, through another proceedings bearing Memo No.4299/B1/85-3, dated 23-9-1986 of the Revenue(B) Department, the Government clarified that the compensation shall be granted for all the assigned lands, acquired either for excavation of canals or for any other departmental purposes. Thus, it is submitted that they should be awarded compensation for the resumption of lands assigned to them, as per the provisions of the LA Act.

Respondents 1 and 2 filed a counter stating that in the year 1998, the petitioners filed another writ petition before this Court in W.P. No. 4673 of 1998 seeking payment of compensation to their assigned lands in Survey No.153, total measuring Ac.19-04 guntas, situated at Nizampur, which were submerged under Manjira Barrage, on par with the patta lands.

It is submitted that on filing of the present writ petition, the second respondent has initiated land acquisition proceedings for acquisition of the assigned lands and for payment of *ex gratia* to the petitioners. The survey and sub-division work has been completed with prior intimation to the writ petitioners on 22-2-1997. According to the survey and sub-division record, the area covered by submergence is as under:

1. Area covered by submergence Ac.14-18 gts

2. Area already submerged Ac. 2-13 gts

Ac.16-31 gts

3. Area under physical possession of the Ac. 2-13 gts

assignees which is not coming under
submergence.

Total: Ac.19-04 gts

On 26-7-1997, the third respondent has sent proposals for acquisition of an extent of Ac.16-31 guntas. Accordingly, land acquisition proceedings were initiated.

It is submitted that subsequently, during process of the land acquisition, it was noticed that the crest level of Manjeera Barrage was not increased, and therefore, there was no question of additional lands coming under submergence. The second respondent and the Deputy General Manager, Hyderabad Metropolitan Water Supply and Sewerage Board have conducted joint inspection of the lands on 31-10-2002 and submitted inspection report to the first respondent. During the joint inspection, it has been found that the lands belonging to the petitioners were not coming under submergence, and their claim is not genuine. Hence it has been decided to withdraw the land of the petitioners from the acquisition proceedings already initiated under Section 48(1) of the LA Act and action is accordingly being taken to withdraw the same.

The third respondent filed a counter submitting that immediately after receiving a letter from the second respondent, he submitted requisition proposals to the second respondent on

25-7-1997 for taking further action. In view of the survey conducted by the second respondent, the dry land admeasuring Ac.16-31 guntas in Survey No.153 is under submergence but not Ac.19-04 guntas, as claimed by the petitioners.

Having regard to the fact that the Government has already initiated Land Acquisition proceedings for the acquired land and also paid compensation, in respect thereof, and the third respondent in his counter stated that in view of the

survey conducted by the second respondent, the dry land admeasuring Ac.16-31 guntas in Survey No.153 is under submergence but not Ac.19-04 guntas as claimed by the petitioners, and the land of the petitioners having been withdrawn from the land acquisition proceedings, already initiated under Section 48(1) of the LA Act and the land of the petitioners not being required for Manjeera Project, no further orders are necessary in this writ petition and the same is accordingly closed. No costs.

N.V.RAMANA, J

Dated: 9th September, 2004.

Ksr/Ak*

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1.The District Collector, Medak at Sangareddy, Medak District.
- 2.The Special Deputy Collector (L.A.), Manjeera Water Works,
Sangareddy, Medak District.
- 3.The Executive Engineer (Metro Water Works)(Manjeera Dam),
Patancheru, Medak District.
- 4.Two CCs to the Government Pleader for Land Acquisition,
High Court Buildings, Hyderabad (O.U.T).
- 5.Two CD copies.